

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-77**

12 **LISA ALICE BARRY**
13 **AKA LISA ALICE LOMBARD**
14 **AKA LISA ALICE HOLBROOK**
15 **315 Gay Road**
Griffin, GA 30223

A C C U S A T I O N

16 **Registered Nurse License No. RN 698752**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about February 27, 2007, the Board of Registered Nursing issued Registered
25 Nurse License Number RN 698752 to Lisa Alice Barry aka Lisa Alice Lombard aka Lisa Alice
26 Holbrook (Respondent). The Registered Nurse License was in full force and effect at all times
27 relevant to the charges brought herein and will expire on January 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code states:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein."

5. Section 2764 of the Code states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license." Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"..."

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7. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

“ . . .

“(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.”

8. California Health and Safety Code section 11173 states:

“(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

“ ”

COST RECOVERY

9. Section 125.3 of the Code provide that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG/DEFINITIONS

10. **Fentanyl** is an opioid analgesic. Fentanyl is a dangerous drug as defined in section 4022, a schedule II controlled substance as defined by section 11055, subdivision (c)(8) of the Health and Safety Code, and a Schedule II controlled substance as defined by Section 1308.12 of Title 21 of the Code of Federal Regulations. It is a strong opioid medication and is indicated for treatment of pain.

11. **Hydromorphone**, sold under the brand name **Dilaudid**, is a Schedule II controlled substance as designated by Health and Safety Code Section 11055, subdivision (b)(1)(K) and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydromorphone is used to treat moderate to severe pain.

12. **Morphine/Morphine Sulfate** is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M),¹ and is a dangerous drug pursuant to Business and Professions Code section 4022. Morphine is in a class of drugs called narcotic analgesics for pain relief.

13. **Pyxis** is a trade name for the automated single-unit dose medication dispensing system that records information such as patient name, physician orders, date and time medication was withdrawn, and the name of the licensed individual who withdrew and administered the medication. Each user is given a "user ID" code to operate the control panel. The user is required to enter a second code "PIN" number, similar to an ATM machine, to gain access to the medications. Sometimes only portions of the withdrawn narcotics are given to the patient. The portions not given to the patient are referred to as wastage. This waste must be witnessed by another authorized user and is also recorded by the Pyxis machine.

FACTS

14. An investigation was conducted by Division of Investigation (DOI) at the request of the Board of Registered Nursing (Board) as a result of a complaint received from Sharp Memorial Hospital, indicating that on July 28, 2009, a Sharp Memorial Hospital Pyxis audit showed high usage of Morphine Sulfate by Respondent and a subsequent audit between June 1 through July 29, 2009, showed that there were discrepancies regarding controlled substances that Respondent removed from Pyxis. It was also noted that Respondent was observed removing Morphine while in street clothes when she was not scheduled to work. Respondent was employed at Sharp Memorial Hospital from February 26, 2009 to July 2009. Respondent was terminated in July of 2009, when the discrepancies were discovered in her removal and accounting of narcotics. The Board's investigation confirmed the following.

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1 15. On July 4, 2009, at 1047 hours, Respondent withdrew 1 mg of Hydromorphone from
2 the Pyxis for patient 2, and at 1052 hours, charted 0.4 Hydromorphone administered, with no
3 waste reported. Respondent failed to account for 0.6 mg of Hydromorphone.

4 16. On July 4, 2009, at 1635 hours, Respondent withdrew 1 mg of Hydromorphone from
5 the Pyxis for patient 2, and at 1639 hours, charted 0.4 Hydromorphone administered, with no
6 waste reported. Respondent failed to account for 0.6 mg of Hydromorphone.

7 17. On July 11, 2009, at 1557 hours, Respondent withdrew 10 mg of Morphine from the
8 Pyxis for patient 5, and no Morphine was charted as administered. A notation in the notes field
9 indicates that Respondent was not working at the time. Respondent failed to account for 10 mg
10 of Morphine.

11 18. On July 12, 2009, at 1605 hours, Respondent withdrew 10 mg of Morphine from the
12 Pyxis for patient 5, and no Morphine was charted as administered. A notation in the notes field
13 indicates that Respondent removed this medication when not working. Respondent failed to
14 account for 10 mg of Morphine.

15 19. On July 19, 2009, at 1305 hours, Respondent withdrew 10 mg of Morphine from the
16 Pyxis for patient 6, and no Morphine was charted as administered. A notation in the notes field
17 indicates that Respondent removed this medication when not working. Respondent failed to
18 account for 10 mg of Morphine.

19 20. On July 24, 2009, at 1251 hours, Respondent withdrew 10 mg of Morphine from the
20 Pyxis for patient 3, and at 1056 hours, almost 2 hours earlier, charted 5 mg Morphine
21 administered, with no waste reported. A notation in the notes field indicates that Respondent was
22 not working/in street clothes at the time. Respondent failed to account for 5 mg of Morphine.

23 21. On July 24, 2009, at 1302 hours, Respondent withdrew 1000 mcg of Fentanyl from
24 the Pyxis for patient 7, and at 1259 hours, another nurse charted "begin bag." Respondent failed
25 to account for 1000 mcg of Fentanyl.

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22. On July 24, 2009, at 1311 hours, Respondent withdrew 4 mg of Morphine from the Pyxis for patient 3, and at 1300 hours, charted 4 mg Morphine as administered, with no waste reported. A notation in the notes field indicates that Respondent was not working/in street clothes.

23. On July 25, 2009, at 1435 hours, Respondent withdrew 10 mg of Morphine from the Pyxis for patient 11, and nothing further is charted. Respondent failed to account for 10 mg of Morphine.

FIRST CAUSE FOR DISCIPLINE

(June 1, 2009 through July 29, 2009, Drug Diversion at Sharp Memorial Hospital)

24. Respondent is subject to disciplinary action under Code section 2762, subdivision (a), on the grounds of unprofessional conduct in that Respondent obtained and possessed controlled substances unlawfully in violation of Health and Safety Code section 11173, as is detailed in paragraphs 14 through 23 above, which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(False Entries in Hospital/Patient Records)

25. Respondent is subject to disciplinary action under Code section 2762, subdivision (e), in that while on duty as a registered nurse at Sharp Memorial Hospital, Respondent falsified, or made incorrect, inconsistent, entries in hospital, patient, or other records pertaining to the controlled substances: Morphine, Hydromorphone (Dilaudid), and Fentanyl, as is detailed in paragraphs 14 through 23 above, which are incorporated herein by reference.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 698752, issued to Lisa Alice Barry aka Lisa Alice Lombard aka Lisa Alice Holbrook;

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1 2. Ordering Lisa Alice Barry aka Lisa Alice Lombard aka Lisa Alice Holbrook to pay
2 the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
3 case, pursuant to Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED:

August 3, 2011

for

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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